

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of Applications of)	
)	
NATIONAL SCIENCE AND TECHNOLOGY)	File Nos. 0002864440, 0002919013
NETWORK, INC.)	
)	
Consolidated Petition To Deny Filed by the City)	
of El Segundo, California)	

ORDER

Adopted: June 25, 2007

Released: June 27, 2007

By the Deputy Chief, Mobility Division, Wireless Telecommunications Bureau:

1. *Introduction.* On December 29, 2006, National Science and Technology Network, Inc. (NSTN), filed an application for authority to operate a new trunked Industrial/Business Pool station at Corona, California, on, *inter alia*, frequency pair 472/475.5250 MHz.¹ On January 24, 2007, the City of El Segundo, California (El Segundo) filed an informal objection to the application.² On February 20, 2007, NSTN filed an application for authorization to operate new trunked Industrial/Business Pool facilities at Rancho Palos Verdes and Glendale, California, on *inter alia*, frequency 471/474.3500 MHz.³ On March 23, 2007, El Segundo filed a consolidated petition to deny the NSTN applications (Petition).⁴ El Segundo asserts that NSTN's proposed operations do not provide the required interference protection to El Segundo's operations on frequency pairs 471/474.3375 MHz and 472/475.5375 MHz under Call Sign WQAD318. For the reasons set forth below, we grant El Segundo's Petition, and will grant NSTN's applications only for the frequencies to which El Segundo does not object.

2. *Background.* NSTN's applications seek authority to operate on 12.5 kHz "offset" channels in the 470-512 MHz band. In 1997, the Commission directed the certified frequency coordinators for the private land mobile radio services to reach a consensus on the applicable coordination procedures for the 12.5 kHz "offset" channels in the 470-512 MHz frequency band.⁵ That consensus is embodied in the Land Mobile Communications Council (LMCC) procedures for evaluating adjacent channel interference in the 470-512 MHz band using the interference criteria of TIA/EIA/TSB-88 (TSB-88).⁶ The LMCC Consensus provides that an application shall not be certified if an incumbent or the applicant has

¹ See FCC application 0002864440.

² Letter dated Jan. 24, 2007 from Russell H. Fox, counsel for El Segundo, to Wireless Telecommunications Bureau. NSTN filed a response on January 25, 2007. NSTN filed a request for expedited action on February 9, 2007. El Segundo filed a reply on February 28, 2007. NSTN filed a response on March 1, 2007.

³ See FCC application 0002919013.

⁴ See Consolidated Petition to Deny filed on March 23, 2007 (Petition). NSTN filed an opposition on April 3, 2007. El Segundo filed a reply on April 9, 2007. NSTN filed a response on April 17, 2007.

⁵ See Replacement of Part 90 by Part 88 to Revise the Private Land Mobile Radio Services and Modify the Policies Governing Them and Examination of Exclusivity and Frequency Assignment Policies of the Private Land Mobile Services, *Second Report and Order*, PR Docket No. 92-235, 12 FCC Rcd 14307, 14330-31 ¶ 43 (1997).

⁶ See Filing Freeze to be Lifted for Applications under Part 90 for 12.5 kHz Offset Channels in the 421-430 and 470-512 MHz Bands, *Public Notice*, 13 FCC Rcd 5942, 5942 (WTB 1997) (citing Letter from Larry A. Miller, President, LMCC, to Daniel B. Phythyon, Esq., Acting Chief, Wireless Telecommunications Bureau (Sept. 10, 1997) (LMCC Consensus)).

unacceptable interference of more than five percent reduction of the calculated service area reliability.⁷ El Segundo has submitted engineering studies demonstrating that NSTN's proposed facilities would degrade El Segundo's service areas in Corona and Whittier, California on frequency pair 472/475.5375 MHz, and its service areas in Glendale, Rolling Hills, and Whittier, California on frequency pair 471/474.3375 MHz, by greater than five percent.⁸

3. *Discussion.* Our engineering analysis using the interference criteria of TSB-88 confirms that NSTN's proposed operations would degrade the service area of El Segundo's Station WQAD318 by more than five percent. NSTN relies on a recent decision⁹ for the proposition that a TSB-88 analysis is not required in this matter because there is no spectral overlap between the existing and proposed facilities. We conclude that there is spectral overlap in the present instance: El Segundo operates on 25 kHz channels (with an occupied bandwidth of 20 kHz), so NSTN's proposed operations on 12.5 kHz channels (with an occupied bandwidth of 11.25 kHz) on center frequencies 12.5 kHz removed from El Segundo's center frequencies would result in overlap. As a result, based on the information before us, we find that the coordination of the NSTN applications appear to be defective with respect to frequency pairs 471/474.3500 MHz and 472/475.5250 MHz because the proposed operations would not afford the required interference protection to Station WQAD318.

4. Finally, NSTN's arguments to the effect that Station WQAD318 is not entitled to protection are not persuasive. It asserts, without any documentation or support, that the station was not timely constructed. The construction notifications on file with the Commission indicate otherwise.¹⁰ NSTN also asserts that El Segundo may not operate Station WQAD318 because Section 90.305(b) of the Commission's Rules¹¹ limits mobile units to thirty miles of the associated base station, and El Segundo is farther than that from the Station WQAD318 locations at issue. El Segundo indicates that the facilities are shared, as permitted by Section 90.179 of the Commission's Rules, with other public safety entities that are closer to the base station than El Segundo.¹² Lastly, NSTN suggests that it need not protect El Segundo's proposed operations because NSTN already is authorized to operate temporary fixed (FB8T) sites at the proposed station locations. NSTN's temporary facilities, however, are not relevant to determining interference protection for permanent fixed stations.¹³

5. We therefore conclude that the appropriate remedy is to grant NSTN's applications only for the frequencies to which El Segundo does not object.

6. Accordingly, IT IS ORDERED pursuant to Sections 4(i) and 405 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 405, and Section 1.106 of the Commission's Rules, 47

⁷ See LMCC Consensus, Attachment at 2.

⁸ See Petition at Ex. A.

⁹ National Science and Technology Network, Inc., *Order*, 22 FCC Rcd 1953 (WTB MD 2007), *recon. pending* (*National Science*). As set forth in that decision, no TSB-88 analysis is required where there is no spectral overlap. *Id.* at 1954 n.10; *see also, e.g.*, City of Los Angeles, Department of Airports, *Order*, 22 FCC Rcd 1808, 1810 ¶ 10 (PSHSB PD 2007), *recon. pending*. The issue of whether *National Science* correctly applied that principle to the facts presented therein will be addressed in the context of the pending petition for reconsideration of that decision.

¹⁰ See FCC applications 0002634079, 0002655772.

¹¹ 47 C.F.R. § 90.305(b).

¹² 47 C.F.R. § 90.179.

¹³ See Mobile Relay Associates, *Order*, 22 FCC Rcd 1600, 1601 ¶ 4 (WTB MD 2007), *recon. pending*; *see also* Amendment of Part 90 of the Commission's Rules, *Notice of Proposed Rulemaking and Order*, WP Docket No. 07-100, 22 FCC Rcd 9595, 9602 ¶ 16 (2007) (indicating that FB8T authorizations were granted improvidently, and will not be renewed as such).

C.F.R. § 1.106, that the consolidated petition to deny submitted by the City of El Segundo, California, on March 23, 2007 IS GRANTED, and applications 0002864440 and 0002919013 filed by National Science and Technology Network, Inc. SHALL BE PROCESSED consistent with this *Order*.

7. This action is taken under delegated authority pursuant to Sections 0.131 and 0.331 of the Commission's Rules, 47 C.F.R. §§ 0.131, 0.331.

FEDERAL COMMUNICATIONS COMMISSION



Scot Stone
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